

[there].” 28 U.S.C. §1400(b) (emphasis added). Nothing in evidence indicates (1) whether Entropic has committed infringing acts at its Northern California “design and sales facilities” or (2) whether these facilities count as a “regular and established place of business.”

Second, Entropic cannot piggyback on Audible Magic’s transfer motion just because Blue Spike’s claims against it are based partly—*not entirely*—on its use of Audible Magic’s infringing technology. See Dkt. 923 at ¶27 (alleging that Entropic “makes, uses, offers for sale and/or imports into the U.S. products, systems and/or services *including, but not limited to*, its set-top box (STB) system-on-a-chip (SoC) platform software, systems, and technology enabled with automatic content recognition (“ACR”), *including* ACR provided by Audible Magic Corp. *and Free Stream Media Corp.* . . . , which infringe one or more claims of the Patents-in-Suit.”) (emphasis added). Like any other transfer movant, Entropic has to analyze each of the relevant public- and private-interest factors and demonstrate that transfer to the Northern District of California would be “clearly more convenient” *given the particulars of the claims against it*. *In re Volkswagen of Am., Inc.*, 545 F. 3d 304, 315 (5th Cir. 2008) (en banc); *In re TS Tech USA Corp.*, 551 F.3d 1315, 1319 (Fed. Cir. 2008). Merely adopting Audible Magic’s arguments for transfer is unavailing. Even though there is significant overlap between the two suits, this suit is ultimately a separate dispute with different parties, different witnesses, some different evidence, and so on.¹

¹ Nevertheless, to the extent relevant, Blue Spike adopts and expressly incorporates by reference the arguments made in opposition to Audible Magic’s transfer motion.

Last, Entropic's joinder is meaningless in any event because "post-filing consent to jurisdiction in the transferee forum is irrelevant to the transfer analysis." *Adaptix, Inc. v. HTC Corp.*, No. 6:12-cv-121, 2013 WL 1314413, at *2 (E.D. Tex. Mar. 28, 2013).

For these reasons, Blue Spike respectfully asks the Court to deny Entropic's joinder in Audible Magic's transfer motion (Dkt. 960).

Respectfully submitted,

/s/ Randall T. Garteiser

Randall T. Garteiser

Lead Attorney

Texas Bar No. 24038912

rgarteiser@ghiplaw.com

Christopher A. Honea

Texas Bar No. 24059967

chonea@ghiplaw.com

Christopher S. Johns

Texas Bar No. 24044849

cjohns@ghiplaw.com

GARTEISER HONEA, P.C.

218 North College Avenue

Tyler, Texas 75702

(903) 705-0828

(903) 526-5477 fax

Kirk J. Anderson

California Bar No. 289043

Peter S. Brasher

California Bar No. 283992

GARTEISER HONEA, P.C.

44 North San Pedro Road

San Rafael, California 94903

(415) 785-3762

(415) 785-3805 fax

Counsel for Blue Spike, LLC

Certificate of Service

The undersigned certifies that the foregoing document was filed electronically in compliance with Local Rule CV-5(a). As such, this document was served on all counsel who are deemed to have consented to electronic service. Local Rule CV-5(a)(3)(A). Pursuant to Federal Rule of Civil Procedure 5(d) and Local Rule CV-5(d) and (e), all other counsel of record not deemed to have consented to electronic service were served with a true and correct copy of the foregoing by email, on September 30 2013.

/s/ Randall Garteiser